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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

ALTERNATIVES COMMUNITY  
MENTAL HEALTH CENTER, INC.,

Plaintiff,

vs.

Case No. 3:01-cv-294-JKS

FRONTIER INSURANCE COMPANY,

Defendant.

**AFFIDAVIT OF JOHN A. TREPTOW**

STATE OF ALASKA                    )  
  ) ss  
THIRD JUDICIAL DISTRICT        )

JOHN A. TREPTOW, being first duly sworn, deposes and states as follows:

1. I am employed by the law firm of Dorsey & Whitney LLP, attorneys for the plaintiff Alternatives Community Mental Health Center, Inc. in this matter.
2. On May 30, 2008 I came into possession of certain information that I believe is relevant to the issues in this lawsuit. On that date, I learned that in 2000, prior to the filing for rehabilitation in the New York Supreme Court, Frontier Insurance Company ("Frontier") entered

into a reinsurance agreement with National Indemnity Insurance Company (“NICO”) that provided Frontier with reinsurance in an amount in excess of \$800 million. I reviewed a copy of the Reinsurance Agreement between Frontier and NICO. It was my opinion that Frontier’s claims in this matter were covered by the Reinsurance Agreement.

3. I also learned on May 30, 2008 that the stay imposed on Frontier’s insured by the rehabilitation order dated October 15, 2001 had been lifted and that litigation had proceeded against Frontier’s insureds throughout the United States. Since at least February 6, 2003 Frontier has been paying for the defense of Red Oaks Assisted Living, Inc. in a lawsuit brought by Ruth Ayuluk in the Superior Court for the State of Alaska, Third Judicial District. The *Ayuluk* case had actually gone to trial and is currently on appeal before the Alaska Supreme Court. It is my understanding that Frontier has been paying for the defense of Red Oaks in that case since February 6, 2003.

4. Based upon what I learned regarding the lifting of the stay with respect to Frontier’s insureds, I did additional research regarding whether or not any lawsuits had been brought against Frontier and which courts had lifted the stay found under ¶ 7 of the October 15, 2001 rehabilitation order that stated “all persons are enjoined in restraint from commencing or prosecuting any actions, lawsuits or proceedings against Frontier, or the Superintendent as Rehabilitator.” I learned that the United States District Court, the Northern District, Eastern District of Illinois, *Love v. Frontier Ins. Co.*, 526 F. Supp. 2d 859, 861 (N.D. Ill. E.D. 2007) and the United States District Court for the District of South Carolina, *Spencer v. Frontier Insurance Co.*, C/A No. 3:02-3431 JFA (November 2005) had lifted the stay entered by the New York

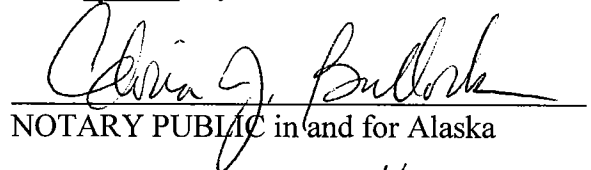
court in actions involving Frontier. A copy of the United States District Court decision in the *Spencer* case is attached hereto as Exhibit A.

5. Attached hereto as Exhibit B is a letter from Frontier's in-house counsel setting forth Frontier's position on the stays contained in the New York Court's October 15, 2001 Order. Attached as Exhibit C is correspondence in the Ayuluk v. Red Oaks Assisted Living, Inc. matter. The case is on appeal to the Alaska Supreme Court. It is my understanding from Ruth Ayuluk's counsel that Frontier has controlled and paid for the defense of that case.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

  
JOHN A. TREPTOW

SUBSCRIBED AND SWORN TO before me this 18<sup>th</sup> day of June, 2008.

  
NOTARY PUBLIC in and for Alaska

My Commission Expires: May 15, 2010

**CERTIFICATE OF SERVICE**

This certifies that on this 18<sup>th</sup> day of June, 2008, a true and correct copy of the foregoing document was served electronically on:

Randall J. Weddle  
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s/ John A. Treptow \_\_\_\_\_

